

Nā Lei Na‘auao
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Hakipu‘u Learning
Center
Kāne‘ohe, O‘ahu

Hālau Kū Māna
Honolulu, O‘ahu

Ka ‘Umeke Kā‘eo
Keaukaha, Hawai‘i

Ka Waihona o ka
Na‘auao
Wai‘anae, O‘ahu

Kamaile Academy
Wai‘anae, O‘ahu

Kanu o ka ‘Āina
Kamuela, Hawai‘i

Kanu i ka Pono
Anahola, Kaua‘i

Kawaikini PCS
Līhue, Kaua‘i

Ke Ana La‘ahana
Keaukaha, Hawai‘i

Ke Kula Ni‘ihau ‘o
Kekaha
Kekaha, Kaua‘i

Ke Kula ‘o
Nāwahīkalanī‘opu‘u
Kea‘au, Hawai‘i

Ke Kula ‘o Samuel M.
Kamakau
Kāne‘ohe, O‘ahu

Kua o ka Lā
Pāhoa, Hawai‘i

Kualapu‘u Elementary
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Kula Aupuni Ni‘ihau
A Kahelelani Aloha
Makaweli, Kaua‘i

Mālama Hōnua
Waimānalo, O‘ahu

Waimea Middle
Kamuela, Hawai‘i

NĀ LEI NA‘AUAO *Alliance for Native Hawaiian Education*

Date: September 4, 2015

TO: Catherine Payne, Chairperson,
Charter School Commission

Cc: Tom Hutton, Executive Director

FROM: Na Lei Na‘auao Alliance for Native Hawaiian Education and Friends

SUBJECT: Charter Contract Renewal Criteria and Process

Mahalo for the Commission’s action extending the timelines for the bilateral contracts and for the subsequent staff meetings with Nā Lei Na‘auao Alliance (NLN) and friends to include Connections Charter School, Kihei Charter School, Kamehameha Schools and The Office of Hawaiian Affairs. The August 6, 2015, meeting was appreciated with 24 representatives of 21 organizations attending the informational commission meeting in the morning and NLN debrief that followed.

While we agree the timeline is important to move the charter renewal contract process forward, the Alliance and the Governing Boards we represent have serious concerns regarding perceived misinterpretation or disregard for the law and question the legality of components that are included and omitted that impact the process and timeline currently proposed.

A long list of detailed concerns and questions that were discussed at the August 6th meeting with the Commission staff is currently being circulated amongst the group to bring forth comment however; we believe that there are overarching questions about the charter renewal process, interpretation of the law, and timeline that need to be addressed prior to getting into the details of the contract and its exhibits.

This representative group identified eight overarching issues that are incongruent with the statute and current contract. We are requesting clarification and neutral formal legal interpretation of the proposals and procedural details to commence as soon as immediately feasible. We further request that the legal opinion be disseminated to all schools and Governing Boards (GB) before requiring charter schools to sign contracts over provisions that may be outside the parameters of the laws GBs and the Commission are accountable to.

We request clarification of the following overarching issues with the charter renewal contract and timeline that we feel are problematic:

1. If probation is accepted, a Governing Board (GB) would waive the right to appeal eliminating a GB’s due process rights.
2. A portion of the contract renewal process Reports/Feedback/Guidance outlined in HRS 302D-18, your administrative rules, and the current

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contract Section 14.2, has been eliminated under the current timeline. This removal is inappropriate and incongruent with Act 130 and the current contract.

3. The current process and timeline does not allow GB negotiations, disregarding the intent and letter of Act 130. Each GB's rights to negotiate must be maintained and imbedded in the process and timeline.
4. The charter school Attorney General (AG) has taken the position that it is not appropriate for their office to negotiate the charter bilateral contract on behalf of GBs. Given the primary negotiator representing the commission is an attorney, GBs request that the Governor approve outside counsel on their behalf. An attorney's professional responsibility when acting in the attorney role is to allow the other party to also have attorney representation.
5. Under Article VII of the State Constitution agencies are only allowed to carryover or reserve 5% of annual budgets. A mandated 25% reserve of the annual operational funds allocation violates the constitutional provision.
6. The contract mandate for Commission staff to conduct inspections of student files and records may violate FERPA laws and policies. Clarification of the purposes and specifics of the record review is required in order to ensure GB's do not violate IDEA access to student records and/or FERPA laws and policies.
7. A formal legal interpretation is required to outline clear lines of authority between GBs and Commission Staff to ensure that GBs and the Commission are fulfilling their fiduciary responsibility while maintaining the intended purpose and serving the best interest of the children.
8. With the passage of a new federal education bill, part of the authorization process involves a period of Rule Making to work out the implementation details of the law that can extend well into 2017. The contract must be aligned so implementation will be timely and relevant to new federal guidelines and laws. Honoring the current contract timeline instead of pushing it forward a year, will allow alignment with the new federal guidance and breathing room to work with Commission staff to produce a realistic contract that serves all of our purposes.

It remains clear that each school shall have the opportunity to negotiate a bilateral contract due to its complexity and implications HRS 302D-5(a)(4). Governing Boards should have access to legal counsel to guide them through the process. This will ensure that the authority of Governing Boards and their autonomy to control and be held accountable for the management of their respective charter schools is maintained, allowing the charter school's to meet the purpose of ACT 130 "to provide genuine community-based education."

Clearly, there is an obvious disconnect between the charter schools' philosophical approach and the commission staff's regulatory intention. It would be extremely helpful if the Commissioners, in conjunction with charter school communities,

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clearly articulated the long-term strategic vision for the movement that would allow all entities to work together for the betterment of our students.

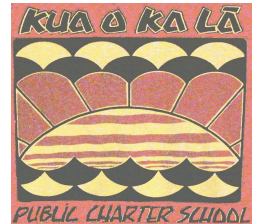
In the spirit of aloha we come to you with unified thankfulness and appreciation for the Commissioners’ support to charter schools and ask for your continued support of the children and families we serve throughout the contract renewal process.

Kua O Ka La PCS

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Aloha Commissioners,

Than you for allowing me to testify today. My name is Susie Osborne and I am here representing Kua o ka La Charter School located in Puna on Hawai'i Island.

We have many concerns and questions that we bring to you today and request your written response. They are pertinent in that they inform us that there are inequities in the current charter system that impact schools ability to succeed with the proposed renewal criteria.

We understand that the Commission is required and feeling pressured by the legislature to develop an accountability system for Charter Schools. We are also certain that the legislators' goal is to develop a good and fair system of accountability. We hope you will deeply consider the plethora of concerns brought forward by Charters and their boards.

We humbly request your response to the following questions.

School Specific Measures:

The charter law states that : "This Act will create genuine opportunities for communities to implement innovative models of community-based education."

In considering this renewal process, what measures are in place that assess and honor our missions, innovations and contributions to models of community based education?

Questions: *How many Charters have negotiated school specific measures with the Commission staff?*

Have you reviewed the measures that have been approved?

What are Charters experience in trying to negotiate these measures with the Commission staff?

FEDERAL FUNDS

“The authorizer SHALL be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes.”

“Charter schools SHALL be eligible for all federal financial support to the same extent as all other public schools. “

Race to the Top- Zone of Innovation:

70 million was awarded to the State to help close the achievement gap with struggling students. A large percentage was dedicated to schools in the identified Zones of Innovation – the areas of highest poverty linked to poor academic scores.

Question: *How many schools in the proposed bottom 20% are located in the Zone of Innovation as identified through the RTTT?*

What charter schools in the Zone of Innovation were offered and/or received these intensive Federal supports/funds?

What supports were provided to the DOE schools in the Zone of Innovation?

One example: UPD was contracted for school turn around support for all public schools in KKPD except for Charters. They just quoted us \$175,000.00 for one -year support as was provided to our neighbor public schools. We want and need this support.

How fair can the proposed academic rating and comparing schools system be for schools not having received these Federal funds/supports?

Federal Funds -Title One supplemental:

Question: *Please provide us with an accounting of the distribution of Title 1 Supplemental funds to Charter Schools from SY2013-2014 to current – the timeline of data considered for the proposed Charter contract data.*

What is the process used to determine distribution of these funds? Does the Strive HI ratings come into the decision process for distribution?

This data should be easily accessible as these are Federal funds and are to be to be

reported annually through the required Commission report to the Governor, legislature, public... etc. Act 130. Please provide us with a copy of the most recent report.

Strive HI ratings: The Federal Government has to approve the Strive HI evaluation measures for the States public schools.

Question: *What is the process that the Commission has conducted that allows the Commission to develop its own measures?*

Have they been approved by the Federal Government?

Have you listened to the Departments proposed changes to Strive HI? (Please do!)

The State is undergoing a revision to Strive HI measures at this time and is soliciting feedback from stakeholders. I understand from this webinar that some measures the Commission staff is using are “problematic”. Again, there is such an extensive approval process for the State to change Strive HI measures that we are wondering how the Commission can change Strive HI measures again without Federal oversight.

Schools in Strive HI. “Focus” or “Priority” Ranking

Question: *How many school in the proposed bottom 20% are rated in the Focus and Priority category?*

What supports of funding or other assistance have they received over the past 2-3 years?

If you are a school in Continuous Improvement and find yourself with the new Commission rating system in consideration of academic monitoring and probation ... will a longer contract with the same supports be offered as was provided for three years to the current schools in these categories?

Natural Disaster supports and considerations:

Question: *What infrastructure of support is in place for schools impacted by natural disasters?*

How were the Charter Schools in Puna impacted financially and academically this past year after surviving two natural disasters?

Can a schools academic performance data be reliable if students lost a month of school attendance due to these disasters?

Was any consideration given to the contract term due to these disasters?

We look forward to receiving your responses. Thank you for your time and service in support of our community based Charter schools of Innovation!

Mahalo,

Susie Osborne

Kua o Ka Lā Public Charter School